

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Case No. BKY 04-45396  
ERIC S. BULAND, )  
 ) Chapter 13  
Debtor. )

OBJECTIONS OF THE UNITED STATES  
OF AMERICA TO THE CONFIRMATION OF THE  
DEBTOR'S CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA, Internal Revenue Service ("IRS"), by and through its attorneys, Thomas B. Heffelfinger, United States Attorney for the District of Minnesota and Roylene A. Champeaux, Assistant United States Attorney, submits the following objections to the Confirmation of Chapter 13 Plan proposed by this debtor and Motion to Dismiss:

1. The confirmation hearing is scheduled for November 18, 2004, at 10:30 a.m. at U.S. Bankruptcy Court, Courtroom 8 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

2. The Court has jurisdiction over these objections and Motion to Dismiss pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Loc. R. Bankr. P. (D. Minn.) 1070-1. This is a core proceeding. The petition commencing this Chapter 13 case was filed September 27, 2004. This case is now pending in this Court.

3. These objections and Motion to Dismiss arise under 11 U.S.C. §§ 1322(a)(2); 1325(a)(6); and 1307(c) and Fed. R. Bankr. P. 3015. These objections and Motion to Dismiss are filed under Fed.

R. Bankr. P. 9013 and 9014 and Loc. R. Bankr. P. (D. Minn.) 3015-3, 3020-1 and 3020-3.

4. The United States, IRS, has an unsecured priority claim of \$10,441.60, and an unsecured general claim of \$2,867.43 against this debtor. The total claim is \$13,309.03, as set forth in the filed Proof of Claim of the IRS, a copy of which is attached hereto as Exhibit A.

5. The Plan provides for the full payment of claims entitled to priority under 11 U.S.C. § 507; however, the Plan fails to provide for any payment on the IRS priority claim. While the Plan provides that the trustee will pay the amounts actually owed as priority claims, the Plan payments are insufficient to pay the IRS priority claim of \$10,441.60 in full.

6. The Plan is not feasible and does not comply with 11 U.S.C. § 1325(a)(6) in that the debtor does not have sufficient income to fund a Plan that properly provides for the IRS priority claim. The debtor's Schedule J shows monthly income of \$100.00 to fund a Plan. This amount is insufficient to fund a Plan that pays the IRS priority claim in full even if the Plan term is extended from 36 to 60 months.

7. Failure of the debtor's Plan to provide for full payment of the allowed priority tax claim of the IRS is grounds for dismissal of the case pursuant to 11 U.S.C. § 1307(c).

WHEREFORE, for the foregoing reasons, the United States prays that the Chapter 13 Plan filed by these debtor's be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Date: October 26, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A. CHAMPEAUX  
Assistant United States Attorney  
Attorney ID Number 154805  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5685

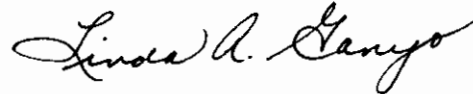
Attorneys for the United  
States of America, IRS

VERIFICATION

I, Linda A. Ganyo, Bankruptcy Specialist for the Internal Revenue Service, the movant named in the foregoing Chapter 13 Bankruptcy for Eric S. Buland as stated on the petition, Bankruptcy No. 04-45396, declares under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 20, 2004

Signed:

A handwritten signature in black ink, reading "Linda A. Ganyo". The signature is written in a cursive, flowing style with a large initial "L".

Linda A. Ganyo  
Bankruptcy Specialist

UNITED STATES BANKRUPTCY COURT		DISTRICT OF MINNESOTA	PROOF OF CLAIM
Name of Debtor <b>ERIC S BULAND</b>		Case Number <b>04-45396</b>	<div style="writing-mode: vertical-rl; transform: rotate(180deg);">RECEIVED</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">OCT 7 7 PM 12:44</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">U.S. BANKRUPTCY COURT</div>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (The person or other entity to whom the debtor owes money or property): <b>Department of the Treasury - Internal Revenue Service</b>		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and address where notices should be sent: <b>Internal Revenue Service 316 North Robert Street Stop 5700STP St. Paul, MN 55101</b>			
Telephone number: (651) 312-7987 Creditor #: 6074514		THIS SPACE IS FOR COURT USE ONLY	
Account or other number by which creditor identifies debtor: <b>see attachment</b>		Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim, dated: _____	
<b>1. Basis for Claim</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input checked="" type="checkbox"/> Taxes <input type="checkbox"/> Other _____			
<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of SS #: _____ Unpaid compensation for services performed from _____ to _____ <div style="text-align: center;">(date) (date)</div>			
2. Date debt was incurred: <b>see attachment</b>		3. If court judgment, date obtained: _____	
<b>4. Total Amount of Claim at Time Case Filed: \$</b> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <u>2,867.43</u>  <small>(unsecured)</small> </div> <div style="text-align: center;"> <u>10,441.60</u>  <small>(secured)</small> </div> <div style="text-align: center;"> <u>13,309.03</u>  <small>(Total)</small> </div> </div> <p>If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.</p> <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
<b>5. Secured Claim.</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		<b>7. Unsecured Priority Claim.</b> <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ <u>10,441.60</u> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,925)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input checked="" type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
<b>6. Unsecured Nonpriority Claim \$</b> <u>2,867.43</u> <input type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or part of your claim is entitled to priority.			
<b>8. Credits:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY  <div style="border: 2px solid black; padding: 10px; width: 150px; margin: 0 auto;"> <b>EXHIBIT</b>   <div style="font-size: 2em; text-align: center;">A</div> </div>	
<b>9. Supporting Documents:</b> Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
<b>10. Date-Stamped Copy:</b> To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date <b>10/05/2004</b>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>/s/ LINDA GANYO 41-02872, Bankruptcy Specialist</u>		

# Proof of Claim for Internal Revenue Taxes

Department of the Treasury/Internal Revenue Service

Form 10  
Attachment

In the Matter of: ERIC S BULAND  
2050 WEST 100TH ST  
BLOOMINGTON, MN 55431

Docket Number

04-45396

Type of Bankruptcy Case

Chapter 13

Date of Petition

09/27/2004

The United States has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

## Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

<i>Taxpayer ID Number</i>	<i>Kind of Tax</i>	<i>Tax Period</i>	<i>Date Tax Assessed</i>	<i>Tax Due</i>	<i>Interest to Petition Date</i>
XXX-XX-6277	INCOME	12/31/2000	02/04/2002	\$8,322.00	\$2,119.60

Total Amount of Unsecured Priority Claims: **\$10,441.60**

## Unsecured General Claims

Penalty to date of petition on unsecured priority claims (including interest thereon) . . . . . \$2,867.43

Total Amount of Unsecured General Claims: **\$2,867.43**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Case No. BKY 04-45396  
ERIC S. BULAND, )  
 ) Chapter 13  
Debtor. )

MEMORANDUM IN SUPPORT OF OBJECTIONS OF THE  
UNITED STATES OF AMERICA TO THE CONFIRMATION  
OF DEBTOR'S CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA, Internal Revenue Service ("IRS"), by and through its attorneys, Thomas B. Heffelfinger, United States Attorney for the District of Minnesota and Roylene A. Champeaux, Assistant United States Attorney, submits the following Memorandum in Support of its Objections to Confirmation of Debtor's Chapter 13 Plan and Motion to Dismiss.

1. The United States, IRS, has an unsecured priority claim of \$10,441.60, and an unsecured general claim of \$2,867.43 against this debtor. The total claim is in the amount of \$13,309.03 as set forth in the filed Proof of Claim of the IRS.

2. Since no objections to the tax claims of the IRS have been filed, the claims are deemed allowed, pursuant to 11 U.S.C. § 502(a).

3. The debtor's Plan fails to provide for adequate payments to fully pay the priority claims of the IRS under 11 U.S.C. § 507 as required under 11 U.S.C. § 1322(a)(2).

4. The Plan fails to comply with 11 U.S.C. § 1326(a)(6) in that the Plan is under-funded as the debtor does not have

sufficient income to pay the IRS priority claim in full even were the length of the Plan to be extended to 60 months.

5. Failure of the debtor's Plan to provide for full payment of the allowed priority tax claim of the IRS is grounds for dismissal of the case pursuant to 11 U.S.C. § 1307(c).

WHEREFORE, for the foregoing reasons, the United States prays that the Chapter 13 Plan filed by this debtor be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Date: October 26, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A. CHAMPEAUX  
Assistant U.S. Attorney  
Attorney ID Number 154805  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5685

Attorneys for the United States  
of America, IRS



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

ERIC S. BULAND,

Chapter 13

Case Number: 04-45396

Debtor.

UNSWORN DECLARATION  
FOR PROOF OF SERVICE

I, Carla R. Kohl, employed by the Office of the United States Attorney, with office address 600 U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, declares that on October 26, 2004, I served the Objections of the United States of America to Confirmation of Debtor's Chapter 13 Plan and Motion To Dismiss, Memorandum in Support of Objections and Motion to Dismiss and proposed Order on the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:  
-----

Robert J. Hoglund, Esq.  
P.O. Box 130938  
Roseville, MN 55113

Minnesota Department of Revenue  
Collection Enforcement Unit  
551 Bankruptcy Section  
P.O. Box 64447  
St. Paul, MN 55164

Jasmine Z. Keller, Esq.  
Chapter 13 Trustee  
12 S. 6th st., Ste. 310  
Minneapolis, MN 55402

Craig Anderson  
Assistant Attorney General  
Office of MN Attorney General  
Tax Litigation Division  
1100 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2128

Office of the U. S. Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Eric S. Buland  
2050 West 100th St.  
Bloomington, MN 55431

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And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: October 26, 2004

Signed: Carla R. Kohl

CARLA R. KOHL

In re: )  
 ) Case No. BKY 04-45396  
ERIC S. BULAND, )  
 ) Chapter 13  
Debtor. )

ROBERT J. KRESSEL  
United States Bankruptcy Judge